

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alyssa Rogowski	Team: Squad #14	CCRB Case #: 201900927	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 01/20/2019 1:55 AM	Location of Incident: [REDACTED]	Precinct: 106	18 Mo. SOL 7/20/2020	EO SOL 3/6/2021	
Date/Time CV Reported Wed, 01/30/2019 8:59 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 01/30/2019 8:59 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Peter Giganti	15520	961788	106 PCT
2. POM Marco Delpriore	17321	957529	106 PCT
3. SGT Sean Doheny	03274	948899	106 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Peter Giganti	Abuse: On January 20th, 2019 at § 87(2)(b) in Queens, Police Officer Peter Giganti stopped the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
B.POM Peter Giganti	Abuse: On January 20th, 2019 at § 87(2)(b) in Queens, Police Officer Peter Giganti frisked § 87(2)(b)	[REDACTED]
C.POM Peter Giganti	Abuse: On January 20th, 2019 at § 87(2)(b) in Queens, Police Officer Peter Giganti searched § 87(2)(b)	[REDACTED]
D.POM Peter Giganti	Abuse: On January 20th, 2019 at § 87(2)(b) in Queens, Police Officer Peter Giganti searched the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
E.POM Marco Delpriore	Abuse: On January 20th, 2019 at § 87(2)(b) in Queens, Police Officer Marco Delpriore searched the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
F.SGT Sean Doheny	Abuse: On January 20th, 2019 at § 87(2)(b) in Queens, Sergeant Sean Doheny searched the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
G.POM Marco Delpriore	Abuse: On January 20th, 2019 at § 87(2)(b) in Queens, Police Officer Marco Delpriore threatened to arrest § 87(2)(b)	[REDACTED]
H.POM Peter Giganti	Abuse: On January 20th, 2019 at § 87(2)(b) in Queens, Police Officer Peter Giganti seized § 87(2)(b)'s property.	[REDACTED]
I.POM Peter Giganti	Abuse: On January 20th, 2019 at the 106th Precinct stationhouse, Police Officer Peter Giganti searched § 87(2)(b)'s laptop.	[REDACTED]
J.POM Peter Giganti	Abuse: On January 20th, 2019 at the 106th Precinct stationhouse, Police Officer Peter Giganti searched § 87(2)(b)'s notebook.	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
K.SGT Sean Doheny	Abuse: On an unknown date, Sergeant Sean Doheny stopped the vehicle in which § 87(2)(b) was an occupant.	
L.POM Marco Delpriore	Abuse: On an unknown date, Police Officer Marco Delpriore stopped the vehicle in which § 87(2)(b) was an occupant.	
M.POM Peter Giganti	Abuse: On an unknown date, Police Officer Peter Giganti stopped the vehicle in which § 87(2)(b) was an occupant.	

Case Summary

On January 30th, 2019, § 87(2)(b) filed this complaint online via the CCRB website.

On January 20th, 2019 at 1:55am, § 87(2)(b) pulled into the driveway of § 87(2)(b) § 87(2)(b) in Queens and exited his vehicle when he was approached by Police Officer Peter Giganti, Police Officer Marco Delpriore, and Sergeant Sean Doheny, all of the 106th Precinct. PO Giganti allegedly stopped § 87(2)(b) (**Allegation A: Abuse of Authority**, § 87(2)(g)) then frisked and searched § 87(2)(b) (**Allegations B and C: Abuse of Authority**, § 87(2)(g)) PO Giganti, PO Delpriore, and Sgt. Doheny each allegedly searched § 87(2)(b)'s vehicle (**Allegations D – F: Abuse of Authority**, § 87(2)(g)) § 87(2)(b)'s girlfriend, § 87(2)(b) exited § 87(2)(b) § 87(2)(b) and approached the officers. PO Delpriore allegedly told § 87(2)(b) “Step away from the car. I’m not going to tell you again. If you don’t get away from here, I’m going to take you too.” (**Allegation G: Abuse of Authority**, § 87(2)(g)) After alleged narcotics were discovered in § 87(2)(b)'s trunk, § 87(2)(b) was arrested and transported to the 106th Precinct stationhouse. PO Giganti also seized § 87(2)(b)'s vehicle (**Allegation H: Abuse of Authority**, § 87(2)(g)) At the 106th Precinct stationhouse, PO Giganti allegedly searched § 87(2)(b)'s notebooks and laptop (**Allegations I and J: Abuse of Authority**, § 87(2)(g)) § 87(2)(b) additionally alleged that on unknown dates, Sgt. Doheny, PO Delpriore, and PO Giganti, had conducted vehicle stops of her (**Allegations K – M: Abuse of Authority**, § 87(2)(g))

There is no video evidence in this case.

Findings and Recommendations

Allegation A—Abuse of Authority: On January 20th, 2019 at § 87(2)(b) in Queens, Police Officer Peter Giganti stopped the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) stated that he was driving in § 87(2)(b)'s car, a 2014 black Hyundai Equus, on Rockaway Boulevard and passed an unmarked police vehicle double parked at the corner of § 87(2)(b) (Board Review 01, 02). § 87(2)(b) activated his turn signal and turned right onto § 87(2)(b). He then saw the unmarked police car make the right turn behind him, but no police lights were activated. § 87(2)(b)'s destination, § 87(2)(b)'s house located at § 87(2)(b) in Queens, was only two houses in from the corner of § 87(2)(b) and § 87(2)(b) pulled into the driveway. As he parked, he saw the unmarked police car activate blue and red police lights and park in front of the driveway as if to block the driveway. Three plain clothes officers, identified as PO Giganti, PO Delpriore, and Sgt. Doheny, exited the unmarked vehicle. § 87(2)(b) exited his vehicle and PO Giganti, who was standing at the rear of § 87(2)(b)'s vehicle, told him to get back in his vehicle.

PO Delpriore, PO Giganti, and Sgt. Doheny were all interviewed about this incident (Board Review 05, 06, 07). PO Giganti, who was the operator, stated that the officers' vehicle had been double parked near the corner of § 87(2)(b) when he observed § 87(2)(b) fail to signal while making a right turn onto § 87(2)(b). Sgt. Doheny, who was seated in the front seat, also observed the VTL, though PO Giganti stated it was his decision to execute the stop and denied there was any conversation amongst the officers about the stop. PO Giganti activated his turret lights to initiate the stop and followed § 87(2)(b)'s vehicle down § 87(2)(b). PO § 87(2)(b) PO Delpriore, and Sgt. Doheny all stated that the actual vehicle stop

occurred in the driveway. Once PO Giganti had pulled into the driveway behind § 87(2)(b)'s vehicle, all three officers exited their vehicle. PO Giganti approached the driver's side while Sgt. Doheny and PO Delpriore went to the passenger side. PO Giganti, PO Delpriore, and Sgt. Doheny all stated that § 87(2)(b) was still seated in the driver's seat when they approached the vehicle.

PO Giganti prepared § 87(2)(b)'s arrest report, which indicates that § 87(2)(b) was observed making a right turn while failing to use a turn signal and that he was charged with illegal signal from a parked position (Board Review 16).

§ 87(2)(b), § 87(2)(g)
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§ 87(2)(b).

Allegation B—Abuse of Authority: On January 20th, 2019 at § 87(2)(b) in Queens, Police Officer Peter Giganti frisked § 87(2)(b)

Allegation C—Abuse of Authority: On January 20th, 2019 at § 87(2)(b) in Queens, Police Officer Peter Giganti searched § 87(2)(b)

Allegation D—Abuse of Authority: On January 20th, 2019 at § 87(2)(b) in Queens, Police Officer Peter Giganti searched the vehicle in which § 87(2)(b) was an occupant.

Allegation E—Abuse of Authority: On January 20th, 2019 at § 87(2)(b) in Queens, Police Officer Marco Delpriore searched the vehicle in which § 87(2)(b) was an occupant.

Allegation F—Abuse of Authority: On January 20th, 2019 at § 87(2)(b) in Queens, Sergeant Sean Doheny searched the vehicle in which § 87(2)(b) was an occupant.

Allegation G—Abuse of Authority: On January 20th, 2019 at § 87(2)(b) in Queens, Police Officer Marco Delpriore threatened to arrest § 87(2)(b)

§ 87(2)(b) stated that when PO § 87(2)(b) told him to get back into his car, he asked why and PO Giganti told him to turn around and put his hands on the car. § 87(2)(b) complied and while standing on the driver side of the vehicle put his hands on the roof of the vehicle. PO Giganti searched and frisked him, in that, PO Giganti placed his hands into § 87(2)(b)'s coat front pockets, patted down his upper body area, and then patted down his front pants pockets. PO Giganti found a sealed can in § 87(2)(b)'s right coat pocket, took it out and asked him if it was weed, which § 87(2)(b) stated it was. § 87(2)(b) stated in his interview that the vehicle did not smell like marijuana because he does not smoke in it and denied that he himself smelled like marijuana either. After PO Giganti searched § 87(2)(b)'s person, PO Giganti walked to the rear of § 87(2)(b)'s vehicle, and one of the other two officers came to stand near § 87(2)(b) on the driver side. Another officer searched § 87(2)(b)'s vehicle alone and § 87(2)(b) observed that he searched the front and back seats. § 87(2)(b) was unable to recall which officer took which actions.

During the vehicle search, § 87(2)(b) came outside and spoke to one of the officers who she recognized as having been involved in § 87(2)(b)'s arrest the year before (see Board Review 08), identified by the investigation as PO Delpriore. She asked if PO Delpriore recognized § 87(2)(b) but he responded that he did not realize that they were pulling § 87(2)(b) over because “he was sleeping in back of the police vehicle.” At this point, § 87(2)(b) stood at the rear of his vehicle leaning on the trunk and all three officers were

standing around him. PO Giganti instructed § 87(2)(b) to give him his car keys, and an officer, who § 87(2)(b) did not recall, took car keys from § 87(2)(b)'s pocket. § 87(2)(b) was then instructed to sit in the front of the vehicle. § 87(2)(b) complied but left the driver's door open. He saw PO Giganti use the car keys to open the trunk and saw all three officers looking inside of it. After a few seconds, § 87(2)(b) exited the vehicle so he could see what the officers were doing. § 87(2)(b) heard PO Giganti instruct an officer to handcuff § 87(2)(b). When § 87(2)(b) asked why, PO Giganti held up a plastic Ziploc bag filled with a white powdery substance and asked him, "What's this?" § 87(2)(b) explained to the investigation that the plastic bag had been filled with a weight supplement and that this bag had been inside his backpack in the trunk.

Either PO Delpriore or Sgt. Doheny then handcuffed § 87(2)(b). One of the officers told § 87(2)(b) that they were taking § 87(2)(b) and the vehicle to the precinct. § 87(2)(b) was upset that the officers were taking the vehicle and § 87(2)(b) stated that an officer told § 87(2)(b) to go back inside the house. § 87(2)(b) was then transported in the police car back to the 106th Precinct stationhouse and one of the officers drove his car to the stationhouse.

§ 87(2)(b) stated that she had been inside her home at § 87(2)(b) in Queens when she saw a police car parked in front of her driveway and § 87(2)(b) standing with officers in the driveway next to her vehicle (Board Review 03, 04). § 87(2)(b) exited the house and asked the officers what was going on. The officers initially told her to get back inside, then stated that § 87(2)(b) had made an illegal right turn without signaling, that § 87(2)(b) had been driving erratically and traveling very fast, and that there was an odor of marijuana so they had probable cause to search the car. § 87(2)(b) told the officers that § 87(2)(b) did not smoke in that car because it was a family car. § 87(2)(b) stated in her interview that § 87(2)(b) does vape with medical marijuana and that he may have had the odor of marijuana on his clothes from people he associated with at work. § 87(2)(b) did not observe an odor of marijuana while she was outside and denied she smelled marijuana in the car earlier that day.

§ 87(2)(b) recognized one officer from a prior arrest of § 87(2)(b)'s from January 2018. In her interview, § 87(2)(b) referred to this officer as PO Giganti, however, the officers' testimony, § 87(2)(b)'s arrest report from this prior arrest, and § 87(2)(b)'s testimony indicate that the officer she interacted with was actually PO Delpriore. Throughout the conversation, § 87(2)(b) kept approaching the officers and ended up standing on the passenger side of her vehicle near the rear of the vehicle. § 87(2)(b) saw PO Delpriore search the trunk of the vehicle and recover a brown paper bag. § 87(2)(b) recognized the bag as something that § 87(2)(b)'s mother had given him, which contained one bag of baking soda and one of creatin, an exercise supplement, though § 87(2)(b) never saw the actual powder during the incident. § 87(2)(b) did not think that other officers were involved in the search of the vehicle.

Both the officers and § 87(2)(b) told § 87(2)(b) to go back inside and she complied. After about 10 minutes, she came back outside and saw that the officers had handcuffed § 87(2)(b) and were walking him away. PO Delpriore stated, "You have to move away from the car," and that they were taking the car in as evidence. § 87(2)(b) objected to the officers taking the car. PO Delpriore told her, "Step away from the car. I'm not going to tell you again. If you don't get away from here, I'm going to take you too." § 87(2)(b) interpreted this statement as a threat of arrest. The officers then left with § 87(2)(b) and the car.

PO Giganti stated that upon approaching the driver's side, he informed § 87(2)(b) that he had been stopped for failing to signal. Both Sgt. Doheny and PO Giganti stated that they observed a strong odor of marijuana emanating from the vehicle immediately upon approach. PO

Delpriore made no observation of an odor of marijuana at all during the stop. Neither PO Giganti nor Sgt. Doheny recalled if the odor was burnt or unburnt and both stated they have received marijuana field test training. Sgt. Doheny added that he has prior experience with making marijuana arrests in the past.

PO Giganti asked § 87(2)(b) to step out of the vehicle and stated in his interview that he did so because of the odor of marijuana. Prior to PO Giganti ordering § 87(2)(b) to exit the vehicle, § 87(2)(b) had not exited his vehicle. § 87(2)(b) complied and PO Giganti frisked § 87(2)(b)'s person to confirm that § 87(2)(b) did not have any weapons on him. PO Giganti did not recall having observed any bulges and stated that it is procedure to frisk him. During the frisk, he felt a few hard objects in § 87(2)(b)'s coat and pants pockets. Because he felt an unknown hard object, PO Giganti entered § 87(2)(b)'s coat pocket and removed one of the hard objects. He observed that it was a metal canteen containing marijuana. PO Giganti stated that if he recalled correctly, there was a label on the side of the metal container stating that the container contained marijuana with the exact grams. PO Giganti stated that the container was about the size of a hockey puck and looked like a chewing tobacco container. PO Giganti did not recall if § 87(2)(b) made any statements about the marijuana. When asked if the quantity of marijuana was so much that § 87(2)(b) could have been arrested or if he could have just been summonsed on scene, PO Giganti stated that he did not recall the exact amount but knew that § 87(2)(b) at least five containers of the same canteen size. He was not sure what the aggregate weight ended up being. PO Giganti believed that most of these containers were in his pockets but did not recall if any were in the car. Both PO Delpriore and PO Giganti stated that PO Giganti was the only officer who frisked or searched § 87(2)(b) on scene.

PO Giganti then asked § 87(2)(b) to stand at the rear of the vehicle with Sgt. Doheny and PO Delpriore, which he did. PO Giganti then searched the driver's side interior, passenger's side interior, rear seating area. PO Giganti denied that either Sgt. Doheny or PO Delpriore assisted with the search of the vehicle. PO Giganti did not recall if anything was recovered from the passenger compartment of the vehicle and stated that the vehicle was searched because of the odor of marijuana.

PO Giganti then ordered § 87(2)(b) to stand at the driver's seat of the vehicle so that he could search the trunk. Sgt. Doheny stood with § 87(2)(b) at the driver's side. PO Giganti searched the trunk because, after he had § 87(2)(b) exit the vehicle, there was still a strong odor of marijuana in the vehicle. While PO Giganti denied that any of his partners assisted him with searching the trunk, PO Delpriore stated that he participated in the search of the trunk. Sgt. Doheny did not participate in any search of the vehicle or trunk. PO Delpriore and PO Giganti found a bag with a white powdery substance and a metal kilo press in the trunk. PO Giganti did not recall if the white substance and the kilo press were in plain view in the trunk. PO Delpriore, however, recalled that the kilo press was sitting in the trunk in a bag and that they had to open the bag. Both PO Giganti and PO Delpriore believed the white substance to be cocaine based on prior arrests and training and experience. Sgt. Doheny stated that PO Giganti informed him of what he had found in the trunk and Sgt. Doheny made the decision to place § 87(2)(b) under arrest.

PO Delpriore stated that at some point during the incident, § 87(2)(b) had exited the house and approached § 87(2)(b) getting within two to three feet of the officers. Because it seemed like she was going to approach the officers, PO Delpriore asked her to step back once or twice and she complied. PO Delpriore did not remember telling § 87(2)(b) what would happen to her if she did not step back. PO Delpriore did not recall telling § 87(2)(b) that if she did not

go back inside, the officers would take her in as well. PO Giganti and Sgt. Doheny both stated that a female had been in the vicinity of the stop but neither recalled interacting with her. After § 87(2)(b) was placed under arrest, PO Delpriore drove § 87(2)(b)'s vehicle back to the stationhouse. When asked how he obtained the keys to drive the car back, PO Delpriore stated that he believed the keys had been in the vehicle. PO Giganti did not recall where the keys were found.

In People v. Chestnut, 43 A.D.2d 260, the Supreme Court of New York, Appellate Division, Third Department decided that the odor of marihuana emanating from a vehicle, when detected by an officer qualified by training and experience to recognize it, constitutes probable cause to search a vehicle and its occupants. (Board Review 09).

§ 87(2)(b), § 87(2)(g)
[REDACTED]

Allegation H—Abuse of Authority: On January 20th, 2019 at § 87(2)(b) in Queens, Police Officer Peter Giganti seized § 87(2)(b)'s property.

It is undisputed that § 87(2)(b)'s vehicle was seized and transported to the 106th Precinct stationhouse.

This allegation has been pleaded to PO Giganti, who was § 87(2)(b)'s arresting officer. PO Giganti stated that the vehicle was brought back to the stationhouse because narcotics were found in the vehicle so the vehicle itself was evidence. PO Giganti prepared property vouchers for the vehicle, which indicate that it was initially vouchered as arrest evidence, changed to safekeeping after consultation with an ADA, and ultimately released to § 87(2)(b) (Board Review 17).

NYPD Patrol Guide Procedure 218-19 states that for an arrest involving a vehicle, the vehicle may be seized as arrest evidence if approved by an ADA. If an ADA is not available, the vehicle will be invoiced and secured at the stationhouse pending a determination by the ADA (Board Review 18).

§ 87(2)(b), § 87(2)(g)
[REDACTED]

Allegation I—Abuse of Authority: On January 20th, 2019 at the 106th Precinct stationhouse, Police Officer Peter Giganti searched § 87(2)(b)'s laptop.

Allegation J—Abuse of Authority: On January 20th, 2019 at the 106th Precinct stationhouse, Police Officer Peter Giganti searched § 87(2)(b)'s notebook.

At the 106th Precinct stationhouse, § 87(2)(b) was lodged a holding cell, where PO Giganti asked him about some information that § 87(2)(b) wrote in a notebook in his car. PO Giganti also asked questions about specific information that § 87(2)(b) had on his laptop, which had also been in § 87(2)(b)'s car during the incident and was equipped with a passcode. As such, § 87(2)(b) concluded that PO Giganti must have searched his notebook and his laptop's digital contents.

PO Giganti did not recall any specific conversation with § 87(2)(b) other than offering him a snack upon lodging him. PO Giganti denied that he had conversation with § 87(2)(b) about his notes. PO Giganti conducted an inventory search of the vehicle at the stationhouse, which was vouchered as arrest evidence, but did not recall specifically what property was in the vehicle. PO Giganti was shown property vouchers, which indicated that notebooks and a laptop were vouchered. PO Giganti denied that he looked at what was written in the notebooks and denied that he ever accessed the digital contents of § 87(2)(b)'s laptop.

Sgt. Doheny stated that because he was the supervisor, he signed off on the property vouchers for § 87(2)(b)'s arrest. Sgt. Doheny denied that he was ever made aware of or observed PO Giganti search either § 87(2)(b)'s laptop or notebooks. PO Delpriore stated he was not otherwise involved in processing or vouchering § 87(2)(b)'s property.

§ 87(2)(b), § 87(2)(g)
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Allegation K—Abuse of Authority: On an unknown date, Sergeant Sean Doheny stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation L—Abuse of Authority: On an unknown date, Police Officer Marco Delpriore stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation M—Abuse of Authority: On an unknown date, Police Officer Peter Giganti stopped the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) alleged that she was pulled over several times by the officers from this incident and believed that they were targeting her vehicle. § 87(2)(b) was unable to provide specific dates or locations for any of these incidents. § 87(2)(b) was only asked to provide her license during one of these incidents and was never issued any summonses or arrested.

While Sgt. Doheny and PO Delpriore acknowledged having interacted with § 87(2)(b) during his 2018 arrest, Sgt. Doheny, PO Delpriore, and PO Giganti all denied having recognized or having any prior familiarity with § 87(2)(b)'s vehicle or with her.

The investigation requested all warrant checks run for § 87(2)(b) from January 1st, 2018 to May 1st, 2019 and received negative results (Board Review 10).

§ 87(2)(b), § 87(2)(g)
§ 87(2)(b), § 87(2)(g)
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Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been party (Board Review 11).

- § 87(2)(b)
§ 87(2)(b)

